

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Vincent Bowers,

Civil Action No.: _____

Plaintiff,

v.

Mercantile Adjustment Bureau, LLC,

Complaint

Defendant.

INTRODUCTION

1. Plaintiff Vincent Bowers brings this action for actual and statutory damages resulting from the Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA"), a law that prohibits debt collectors from using abusive, deceptive, and unfair practices in an attempt to collect a debt.

JURISDICTION AND VENUE

2. This honorable Court possesses jurisdiction over this matter pursuant to 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

3. Additionally, venue in this District arises pursuant to 28 U.S.C. § 1391(b) since Defendant Mercantile Adjustment Bureau, LLC transacts business in this District and the conduct complained of occurred in this District.

PARTIES

4. Plaintiff Vincent Bowers is a natural person residing in the County of Erie, State of New York, and is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).

5. Defendant Mercantile Adjustment Bureau, LLC, (hereinafter "Mercantile") is a domestic limited liability company and existing under the laws of the State of New York. Mercantile is a "debt collector" as that term is defined by 15 U.S.C. §1692a(6).

6. Any and all acts of the Defendant hereinafter alleged were performed by Defendant's employees, while under the scope of the Defendant's actual or apparent authority.

7. Any and all references to "Defendant" herein shall include the Defendant and/or an employee of the Defendant.

FACTUAL ALLEGATIONS

8. That Plaintiff Vincent Bowers is alleged to have incurred and later defaulted on a debt. Said alleged debt will hereinafter be referred to as "the subject debt".

9. The subject debt is a "debt" as that term is defined by 15 U.S.C. §1692a(5).

10. On or about March 2012, Defendant contacted Plaintiff by telephone and left an answering machine message on Plaintiff's home answering machine at phone number 716-691-5142. Said message read substantially as follows:

"Hello. This message is for Vincent Bowers. If you are not Vincent Bowers, please disconnect this call. By continuing to listen to this message, you acknowledge you are Vincent Bowers. This is Julia from Mercantile Adjustment Bureau. Please contact me about an important personal business matter at 1-866-809-7506. This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose."

11. The Defendant's attempt at contacting Plaintiff through the use of an answering machine message is a "communication" as that term is defined by 15 U.S.C. §1692a(2).

12. As Defendant left said answering machine message, it played audibly over the answering machine's external speaker.

13. Vincent Kelso heard said message in its entirety while it was being left by Defendant.

14. Vincent Kelso then inquired to Plaintiff about Defendant's communication, and as a result Plaintiff suffered personal humiliation, embarrassment, mental anguish, and emotional distress.

CAUSE OF ACTION

15. The aforementioned acts of the Defendant have violated the Fair Debt Collection Practices Act (15 U.S.C. §1692 et seq.) as follows:

16. Defendant violated 15 U.S.C. §1692c(b) by communicating with a party, in connection with the collection of a debt, other than the consumer, his attorney, a consumer reporting agency, the creditor, the attorney of the creditor, or the attorney of the debt collector.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief be granted:

- (a) Actual damages, pursuant to 15 U.S.C. §1692k(a)(1);
- (b) Statutory damages of \$1,000.00, pursuant to 15 U.S.C. §1692k(a)(2)(A);
- (c) Costs and disbursements of this action, along with reasonable attorney's fees, pursuant to 15 U.S.C. §1692k(a)(3); and

(d) For any and all additional relief as this Court deems just and proper.

JURY DEMAND

Please take notice that Plaintiff demands a trial by jury in this action.

Date:

Respectfully submitted,

/s/ Cyrus B. Chubineh

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